

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ROBERT MILLER.,

Plaintiff,

v.

**BRIAN COLLIER, WILLIAM JONES,
LORENZO BUSTOS, SAM CUMMINGS,
JERRY FRANKLIN,**

Defendants.

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CIVIL ACTION NO. 6:18-CV-00650-JDK

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Robert Miller, an inmate confined at the Skyview Unit of the Texas prison system, proceeding *pro se* and seeking to proceed *in forma pauperis*, brings this civil rights lawsuit pursuant to 42 U.S.C. § 1983. (Docket No. 1.) The case was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation (Docket No. 3) concluding that the lawsuit should be dismissed for purposes of *in forma pauperis* proceedings pursuant to the “three strikes” provisions of 28 U.S.C. § 1915(g). On February 15, 2019, Plaintiff received a copy of the Magistrate Judge’s Report and Recommendation. (Docket No. 4.) The Report and Recommendation informed Plaintiff of his rights to object to the Report and Recommendation within 14 days, and further informed him that a failure to timely object shall bar “the objecting party from appealing the factual findings and legal conclusions of the Magistrate Judge which are accepted and adopted by the district court except upon grounds of plain error.” (Docket No. 3 at 4–5 (citing *Douglass v. United States Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996)).) Since Plaintiff’s receipt of the Report and Recommendation on February

15, 2019, Plaintiff has not filed objections, and the prescribed time period for doing so has passed.


Having reviewed the findings and conclusions of the Magistrate Judge, the Court agrees with the Magistrate Judge. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). It is further

ORDERED that Plaintiff's motion to proceed *in forma pauperis* (Docket No. 2) is **DENIED**. This Order does not bar refiling of this lawsuit without seeking *in forma pauperis* status and upon payment of the full \$400.00 filing fee. Plaintiff may resume the lawsuit if he pays the entire filing fee of \$400 within fifteen (15) days after the entry of the Final Judgment. It is finally

ORDERED that all motions not previously ruled on are **DENIED**.

So **ORDERED** and **SIGNED** this **18th** day of **March, 2019**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE